

# IMPORTANT ECONOMIC AND SOCIAL ISSUES AND ASSOCIATED LEGAL MANDATES<sup>1</sup>

Costs and Benefits (Economic Efficiency)	Minimize Adverse Effects or Costs	Distribution and Equity <sup>2</sup> (Weighting)	Economic Impacts	Safety	Social Effects or Community Impacts	Cumulative Effects
EO 12866	NS7	EO 12866	NS1	NS10	NS8	NEPA
NS1 <sup>3</sup>	RFA	NS1	MSA 303(a)(13) <sup>4</sup>	EO 12866	NS1	MSA 303(a)(9)
NS4 <sup>5</sup>	EO 13272	NS4	MSA 303(b)(6)	MSA 303(a)(9)	MSA 303(a)(9)	EO 12866
NS5		MSA 303(a)(14)	NEPA		MSA 303(b)(6)	
NS9 <sup>6</sup>		RFA	EO 12866		NEPA	
MSA 303(a)(9) <sup>7</sup>		NEPA			EO 12898	
MSA 303(a)(14) <sup>8</sup>		ESA 4(b)(2)			EO 12866	
MSA 303(b)(6) <sup>9</sup>		EO 13272			ESA 4(b)(2)	
NEPA		EO 12898				
ESA 4(b)(2) <sup>10</sup>						

<sup>1</sup> This table highlights important economic and social issues and key legal provisions that arise in fishery management, but is not intended to be an exhaustive list of legal mandates or economic and social issues. Red = Economic, Purple = both Economic and Social, Blue = Social, Green = applies to Economic and Social

<sup>2</sup> Distribution is a positive analysis while equity is a normative analysis.

<sup>3</sup> NS 1 requires preventing overfishing while achieving, on a continuing basis, the optimum yield (OY) from each fishery. 16 U.S.C. § 1851(a)(1). "Optimum" is defined, in part, with reference to the "greatest overall benefit to the Nation." *Id.* § 1802(33)(A). Greatest overall benefit is equivalent to maximum net benefits to the Nation.

<sup>4</sup> MSA requires an FMP include a "description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact..." *Id.* § 1853(a)(13).

<sup>5</sup> NS 4 addresses, among other things, excessive shares of fishing privileges. *Id.* § 1853(a)(4). Excessive shares create market power which creates economic inefficiency.

<sup>6</sup> NS9 requires minimizing bycatch and bycatch mortality "to the extent practicable." *Id.* § 1853(a)(9). The NS9 Guidelines provide that, in their evaluation of conservation and management measures under NS9, Councils must consider the "net benefits to the Nation." 50 C.F.R. § 600.350(d).

<sup>7</sup> 16 U.S.C. § 1853(a)(9) (requirement for fishery impact statement (FIS) that includes analysis of cumulative conservation, economic and social impacts analyses). In this case, economic "impacts" are interpreted in practice to be economic effects (costs and benefits).

<sup>8</sup> *Id.* § 1853(a)(14) (when an FMP reduces harvest, it must allocate any harvest restrictions or recovery benefits fairly and equitably, taking into consideration economic impacts on fishery participants in each sector). In this case, economic "impacts" are interpreted in practice to be economic effects.

<sup>9</sup> *Id.* § 1853(b)(6) (authorizing development of limited access systems to achieve OY and setting forth required considerations, including dependence on, the fishery; the economics of the fishery; the cultural and social framework relevant to the fishery and any affected fishing communities; the fair and equitable distribution of access privileges in the fishery; etc.

<sup>10</sup> The Secretary shall designate critical habitat...after taking into consideration the economic impact...The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat." Again, economic impact is interpreted to be economic effects (C/B).